

Application No. 09/709,787
Reply to Final Office Action of Sept 18, 2006

MAR 16 2007

Patent
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II. REMARKS/ARGUMENTS

A. Summary of Amendments

The present application now contains 57 claims.

Claim 187 has been amended in order to better define the subject matter being claimed.

Claims 220-223 have been newly added to the application.

No new matter has been added to the present application under the present response.

B. Summary of Objection and Response under 35 USC §112

Claims 155, 186, 187, 195, 200, 216 and all claims dependent therefrom

In the Office Action, the Examiner alleges that claims 155, 186, 187, 195, 200, 216 and all claims dependent therefrom, fail to comply with the enablement requirement under 35 USC §112. The Examiner then goes on to allege that there is a lack of support in the original disclosure for the limitation of "receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller".

As indicated in the Applicant's previous response dated February 20, 2006, the Applicant respectfully re-submits that the Examiner is confusing two separate issues; namely 1) the requirement for support in the written description, and 2) the requirement for enablement. The Examiner's attention is directed to §2164 of the MPEP, which clearly indicates that "the enablement requirement of 35 U.S.C.

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§112, first paragraph, is separate and distinct from the description requirement". *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563, 19 USPQ2d 1111, 1116-17 (Fed Cir. 1991). Accordingly, each of these two issues will be addressed separately below, and for the reasons presented, the Applicant respectfully submits that the present description satisfies both the requirement for support in the written description, and the requirement for enablement.

a) Written Description Requirement

The Applicant respectfully submits that there is support in the written description for the above identified limitation. More specifically, as indicated in the Applicants communication of February 20, 2006, support for the limitation of "receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller" is found on page 9, lines 7-9 of the description and in Figure 8. For ease of reference, each of these sections of the description have been reproduced below.

Page 9, lines 7-9 recite:

"in block 152, the dealer can monitor the current software installed on spa controller 53. If there is a software update, the dealer can download this info by clicking button 153".

In addition, Figure 8 shows button 153, which indicates:

"send new software to spa".

In the Office Action, the Examiner continues to argue that the term "this info" on page 9, "is a vague term that could mean downloading the information about whether there IS an update to the spa controller or downloading the software version number". The Examiner goes on to indicate that "while it is possible that the downloading of a software component through the communication link to the spa controller was the intended purpose of these statements in the specification, it is certainly unclear".

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Firstly, the Applicant respectfully disagrees with the Examiner that the term "this info" is vague. More specifically, when read in the context of the sentence, this term is quite clear. The sentence clearly indicates that "If there is a software update, the dealer can download *this info* by clicking button 153 (which in Figure 8 reads "send new software to spa"). When read in the context of the sentence, it is clear from the above sentence that the "info" being referred to is the software update. This is further enforced by the fact that button 153 in Figure indicates "send new software to spa".

Secondly, regardless of whether the term "this info" is vague or not, the test for adequate support in the written description is not whether the terms used in the description are crystal clear, but whether the description reasonably conveys to a person of ordinary skill in the art that the applicant had possession of the claimed subject matter. According to the Patent and Trademark Office Board of Patent Appeals and Interferences in *Ex parte Sorenson*, 3 U.S.P.Q.2d 1462, 1463 (P.T.O. Bd. Pat. App. & Int'f 1987), the test for determining whether a claimed invention is adequately described in the specification is whether the originally filed disclosure *reasonably conveys* to a person having ordinary skill in the art that the applicant had possession of the subject matter later claimed.

The Applicant respectfully submits that the portions of the application identified above would certainly *reasonably convey* to a person of ordinary skill in the art that the Applicant had possession of the concept of "receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller", regardless of whether the term "the info" is, or is not, vague. Accordingly, the application as originally filed is believed to satisfy the written description requirement.

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b) Enablement Requirement

The Applicant further submits that the written description further provides enablement for the above limitation. In the case of *In re Wands*, 8 USPQ2d 1400 (Fed. Cir. 1988), it is established that in order to satisfy the enablement requirement of [section] 112, paragraph 1, the specification must enable one of ordinary skill in the art to practice the claimed invention without undue experimentation. The case goes on to outline that the factors to be considered when evaluating whether there is undue experimentation include: 1) the quantity of experimentation necessary, 2) the amount of direction or guidance presented, 3) the presence or absence of working examples, 4) the nature of the invention, 5) the state of the prior art, 6) the relative skill of those in the art, 7) the predictability or non predictability of the art, and 8) the breadth of the claims. In light of this case, it should be appreciated that when considering the requirement for enablement, the relationship between the specification, the claims, and the knowledge of one of ordinary skill in the art, should be considered.

With regards to factors 4, 5 and 6, namely, the nature of the invention, the state of the prior art and the relative skill of those in the art, the Applicant respectfully submits that a person of relative skill in the art would be able to make and use the claimed invention (including the limitation to which the Examiner has objected) without undue experimentation. More specifically, the description clearly indicates the manner in which a communication link is established between the spa controller, the interface signal converter and a remote computer. As such, when considering the level of description in the application, as well as the state of the art in which protocols for uploading and downloading information between a device and a remote computer are known, a person of relative skill in the art would have been able to achieve the claimed invention with only a limited amount of experimentation.

This concept relating to the requirement for enablement is further set forth in the Supreme Court decision of *Mineral Separation v. Hyde* 242 U.S. 261, 270 (1916)

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which indicates that the test for enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art *without undue experimentation*. As indicated in the Applicant's previous communication dated Feb 20, 2006, the specification as originally filed provides sufficient information to make and use the claimed invention.

Accordingly, when considering the requirement for enablement set out in *In re Wands* and *Mineral Separation v. Hyde* 242 U.S. 261, 270 (1916), it is clear that the present application satisfies the requirement for enablement.

In light of the above, the Applicant respectfully submits that there is both support and enablement for the claims in the present application. Accordingly, the Examiner is respectfully requested to withdraw the rejection to claims 155, 186, 187, 195, 200, 216 and all claims dependent therefrom under 35 U.S.C. §112.

If the Examiner continues to allege that the description fails to provide support and/or enablement for the claimed invention, the Examiner is respectfully requested to identify relevant jurisprudence, or sections of the MPEP that support this allegation.

Claims 187 and 194

With respect to independent claim 187 and dependent claim 194, the Examiner further alleges that there is no enablement in the original specification for transmitting a record of errors or that this record of errors comprises the number of times an error has occurred.

In response, the Applicant respectfully submits that the specification, as originally filed includes the required support, and enablement for the concept of error recording. Specifically, the Examiner's attention is respectfully directed to the

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following sections of the specification, which have been reproduced for the Examiner's reference.

The last paragraph beginning on page 8 *[emphasis added]*:

In a preferred embodiment, owner computers C1-C3 are always logged onto the Internet, via either a cable modem or a DSL connection. Automatically per a given time period (for example, once every hour) owner computers C1-C3 are programmed to retrieve from their spa controllers data reporting the status of the spa. Then, this data is automatically transmitted via the Internet to the dealer that sold the spa owner his spa. In this fashion, the dealer is able to continuously monitor the condition of the spa.

Second paragraph on page 9

In block 150, the dealer can monitor the number of times an error has occurred. In block 151, the dealer can monitor when an error has occurred.

The sentence beginning on line 3 of page 10

Utilizing IR transceiver 52A with portable user computer 52, the service technician is able to download from spa controller 53 to portable user computer 52 data that includes a record of errors that may have occurred during the operational life of the spa, as shown in FIG 3B.

As outlined above, in order to provide enablement, the specification must enable one of ordinary skill in the art to practice the claimed invention without undue experimentation. In light of the fact that the specification provides a description of the manner in which data is transmitted to a remote computer, or downloaded to a portable computer, and that a dealer (located at a remote computer, for example) can monitor the number of errors, and when an error occurs, the Applicant respectfully submits that a person of skill in the art would be able to practice the claimed invention without undue experimentation.

Accordingly, the Examiner is respectfully requested to withdraw the rejection to claims 187 and 194.

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C. Summary of Rejection and Response under 35 USC §103(a)

i) Claims 155, 160-163, 168-172, 180-183, 185-187, 190-200, 203-206 and 210-219

In the Office Action, the Examiner has rejected claims 155, 160-163, 168-172, 180-183, 185-187, 190-200, 203-206 and 210-219 under 35 USC §103(a) as being unpatentable over U.S. Patent Publication 2001/0034754 (hereafter to be referred to as Elwahab) in view of U.S. Patent 5,706,191 (hereafter to be referred to as Bassett et al.)

The Applicant respectfully submits that claims 155, 160-163, 168-172, 180-183, 185-187, 190-200, 203-206 and 210-219, as they currently stand, are in condition for allowance and are patentable in light of the the references cited by the Examiner.

CLAIM 155

For ease of reference, independent claim 155 has been reproduced herein below.

A spa control system, comprising:

- A) a heating module suitable for heating water;
- B) at least one water pump suitable for pumping water through said heating module;
- C) a spa controller adapted for controlling said heating module and said water pump at least in part on the basis of software installed on said spa controller;
- D) an interface signal converter in communication with said spa controller, said interface signal converter being operative for:
 - establishing a communications link with a remote computer;
 - receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller;
 - communicating said software components to said spa controller for updating the software installed on said spa controller;

wherein said interface signal converter converts communication signals received from the remote computer via said communications link and directs the converted signals to said spa controller, and wherein said interface signal converter converts signals from said spa controller to be communicated to the remote computer via said communications link.

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The Applicant respectfully submits that the references cited by the Examiner do not disclose, teach or suggest the above-emphasized limitations of independent claim 155. More specifically, neither Elwahab nor Bassett et al. disclose an interface signal converter for "receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller" [emphasis added].

On page 2 of the Office Action, and in response to the Applicant's previous arguments, the Examiner indicates that the "Applicant suggests that it is only the XML pages which are updated (which are not part of the actual smart device). Examiner disagrees and indicates that the entire last paragraph on page 8 of the provisional application deals with updates to not only the XML files but also the API files and the software on the smart device itself." (emphasis added)

The Applicant respectfully disagrees with the Examiner, and submits that the Examiner is reading into Elwahab more than is actually taught. As indicated in Applicant's previous response, Elwahab discloses a customer premises gateway (CPG) that allows remote access and control to a plurality of "smart devices", such as smart refrigerators and telephones. It is the Examiner's position that a "smart device" of Elwahab could be set up as a spa controller.

The Applicant respectfully re-iterates that on page 8 of Elwahab it is expressly indicated that "additional smart device XML pages, or updates for existing smart device XML pages in use at a CPG 10, can be obtained...from any service provider". As indicated on the same page at lines 18-19, "the smart device XML pages are maintained by the embedded web server 12 at the CPG 10". As such, Elwahab **specifically teaches performing updates to software contained at the CPG**, and not to software already installed on a specific "smart device", such as a spa controller. It should be appreciated that each one of the "smart devices"

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disclosed by Elwahab includes an individual controller, and that updating the CPG is not equivalent to updating the controller at each one of the smart devices.

With regards to the Examiner's statement that "the entire last paragraph on page 8 of the provisional application deals with updates to not only the XML files but also the API files and the software on the smart device itself", the Applicant respectfully submits that the Examiner is misguided in his reading of Elwahab. Lines 26-29 of Elwahab indicate that "the CPG 10 is preferably programmed to periodically determine if additional APIs or updated APIs are needed as well. Thus, the CPG 10 can be updated periodically to accommodate new smart devices or new controllable functions of smart devices". This is consistent with the Applicant's above statement, that Elwahab teaches performing updates of software contained at the CPG 10, and NOT updates to software contained at any of the smart devices. Although the CPG 10 is updated in order to accommodate new smart devices, or new controllable functions of the smart devices, it does not actually update software contained at the smart device.

Accordingly, for the reasons presented above, the Applicant respectfully submits that Elwahab does not teach the above-emphasized limitation of independent claim 155.

With respect to Bassett et al., the Applicant respectfully submits that this reference simply relates to an automated management and communication system for controlling an appliance. Nowhere does this reference disclose anything about receiving software component information for updating software contained at an appliance, let alone at a spa controller. As such, the Applicant respectfully submits that this reference does not teach the above-emphasized limitation either.

In accordance with §2142 of the MPEP, in order to establish a *prima facie* case of obviousness, the combination of references cited by the Examiner must teach all

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the limitations found in the claim. Since neither Elwahab nor Bassett et al. disclose the above emphasized limitations of independent claim 155, the Applicant respectfully submits that the combination of these references fails to establish a *prima facie* case of obviousness as per §2142 of the MPEP. As such, independent claim 155, as it currently stands, is now believed to be novel and non-obvious over the references cited by the Examiner. The Examiner is respectfully requested to withdraw the rejection to independent claim 155.

Claims 160-163 and 168-172, 180-183 and 185 depend from independent claim 155, and as such incorporate by reference all the limitations contained therein, including the above-emphasized limitations which have been shown to be absent from both Elwahab and Bassett et al. As such, the Applicant respectfully submits that claims 158-172, 180-183 and 185 are also novel and non-obvious as being dependent upon an allowable base claim.

CLAIM 186

For ease of reference, independent claim 186 has been reproduced herein below.

A spa control system, comprising:

- A) heating means suitable for heating water;
- B) water pump means suitable for pumping water through said heating means;
- C) a spa controller means adapted for controlling said heating means and said water pumping means at least in part on the basis of software installed on said spa controller means,
- D) an interface signal converter means in communication with said spa controller means, said interface signal converter means being operative for:
 - establishing a communications link with a remote computer;
 - **receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller means;**
 - **communicating said software components to said spa controller means for updating the software installed on said spa controller means;**

wherein said interface signal converter means converts communication signals received from the remote computer means via said communications link, and wherein said interface signal converter means converts signals from said spa controller means to be communicated to said remote computer means via the communications link.

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For the same reasons as those presented above with respect to independent claim 155, the Applicant respectfully submits that neither Elwahab nor Bassett et al. disclose, teach or suggest the above-emphasized limitations of independent claim 186. As such, these references fail to establish a *prima facie* case of obviousness, as per §2142 of the MPEP.

Accordingly, the Examiner is respectfully requested to withdraw the rejection to independent claim 186.

CLAIM 187

For ease of reference, independent claim 187 has been reproduced herein below.

A spa control system, comprising:

- A) a heating module suitable for heating water;
- B) at least one water pump suitable for pumping water through said heating module;
- C) a spa controller adapted for:
 - controlling said heating module and said water pump at least in part on the basis of software installed on said spa controller; and
 - generating a record of errors associated with at least one of said heating module and said at least one water pump;
- D) an interface signal converter in communication with said spa controller, said interface signal converter being operative for:
 - establishing a communications link with a remote computer;
 - receiving data comprising said record of errors generated at said spa controller;
 - transmitting a signal conveying the record of errors to the remote computer over said communications link;

wherein said interface signal converter converts communication signals transferred from the remote computer via said communications link and directs the converted signals to said spa controller, and wherein said interface signal converter converts signals from said spa controller to be communicated to the remote computer via said communications link.

The Applicant respectfully submits that the references cited by the Examiner do not disclose, teach or suggest the above-emphasized limitations of independent claim 187. More specifically, neither Elwahab nor Bassett et al. disclose a spa controller that is operative for "generating a record of errors associated with at least one of said heating module and said at least one water pump" and an

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interface signal converter that is in communication with the spa controller for "receiving data comprising said record of errors generated at said spa controller".

Firstly, with regard to Elwahab, the Applicant respectfully submits that as conceded by the Examiner in the present Office Action, Elwahab does not show that the data transferred from the spa controller to the remote computer is a "record of errors". More specifically, Elwahab does not disclose anything regarding monitoring and recording error information associated with any of the "smart devices". As such, the Applicant respectfully submits that Elwahab does not disclose a spa controller that is able to generate a record of errors, nor an interface signal converter for receiving data comprising a record of the errors generated at the spa controller.

Furthermore, with regard to Bassett et al., the Applicant respectfully submits that nowhere in this reference is there disclosed a spa controller that is operative for "generating a record of errors associated with at least one of said heating module and said at least one water pump". Instead, and as indicated in column 11, lines 31-35, of Bassett et al. it is the AIM 78 that is operative to monitor and report to the automation system controller any failures with the appliance 65. Accordingly, the monitoring and diagnostic function is performed at the Appliance Interface Module 78. This differs from the claimed invention, wherein the interface signal converter is simply operative for receiving the already generated record of errors, and transmitting that record of errors to a remote computer.

In light of the above, since neither Elwahab nor Bassett et al. disclose the above emphasized limitations of independent claim 187, the Applicant respectfully submits that the combination of these references fails to establish a *prima facie* case of obviousness as per §2142 of the MPEP. Accordingly, independent claim 187, as amended, is now believed to be novel and non-obvious over the references cited by the Examiner. The Examiner is respectfully requested to withdraw the rejection to independent claim 187.

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Claims 190-194 depend from independent claim 187, and as such incorporate by reference all the limitations contained therein, including the above-emphasized limitations which have been shown to be absent from both Elwahab and Bassett et al. As such, the Applicant respectfully submits that claims 190-194 are also novel and non-obvious as being dependent upon an allowable base claim.

CLAIM 195

For ease of reference, independent claim 195 has been reproduced herein below.

- A spa control system comprising:
- A) a heating module suitable for heating water;
 - B) at least one water pump suitable for pumping water through said heating module;**
 - C) a spa controller adapted for controlling said heating module and said water pump at least in part on the basis of software installed on said spa controller;**
 - D) an interface signal converter in communication with said spa controller, said interface signal converter being operative for exchanging signals with a hand-portable remote computer over a wireless communications link, **wherein the signals received from said hand-portable remote computer include software components comprising updates to software already installed on said spa controller,** said interface signal converter being further operative for communicating said software components to said spa controller for updating the software installed on said spa controller.

For the same reasons as those presented above with respect to independent claim 155, the Applicant respectfully submits that neither Elwahab nor Bassett et al. disclose, teach or suggest the above-emphasized limitations of independent claim 195. As such, these references fail to establish a prima facie case of obviousness, as per §2142 of the MPEP.

Accordingly, the Examiner is respectfully requested to withdraw the rejection to independent claim 195.

Claims 196-199 depend from independent claim 195, and as such incorporate by reference all the limitations contained therein, including the two above-

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emphasized limitations which have been shown to be absent from both Elwahab and Bassett et al. As such, the Applicant respectfully submits that claims 196-199 are also novel and non-obvious as being dependent upon an allowable base claim.

Claim 200

For ease of reference, independent claim 200 has been reproduced herein below.

A spa control system comprising:

- A) a interface signal converter;
- B) a spa controller in communication with said interface signal converter, **said spa controller being adapted for controlling a set of spa components at least in part on the basis of software installed on said spa controller;**
- C) **said interface signal converter being operative for:**
 - establishing a communications link with a remote computer;
 - **receiving information conveying software components over the communications link;**
 - transmitting signals conveying the software components to the spa controller;
- D) **said spa controller being operative for:**
 - receiving signals conveying the software components from said interface signal converter;
 - **updating software already installed on said spa controller at least in part on the basis of the software components received from interface signal converter.**

For the same reasons as those presented above with respect to independent claim 155, the Applicant respectfully submits that neither Elwahab nor Bassett et al. disclose, teach or suggest the above-emphasized limitations of independent claim 200.

More specifically, neither of the references disclose "updating software already installed on said spa controller at least in part on the basis of the software components received from interface signal converter" [emphasis added]. As such, these references fail to establish a prima facie case of obviousness, as per §2142 of the MPEP.

Accordingly, the Examiner is respectfully requested to withdraw the rejection to independent claim 200.

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Claims 203-206 and 210-215 depend from independent claim 200, and as such incorporate by reference all the limitations contained therein, including the two above-emphasized limitations which have been shown to be absent from both Elwahab and Bassett et al. As such, the Applicant respectfully submits that claims 203-206 and 210-215 are also novel and non-obvious as being dependent upon an allowable base claim.

Claim 216

For ease of reference, independent claim 216 has been reproduced herein below.

A computer readable storage medium including a program element suitable for execution by a computing apparatus for implementing a system for monitoring a spa controller, the computing apparatus including a memory unit and processor operatively connected to the memory unit, said program element when executing on said processor being operative for:

- a) establishing a communications link with a spa controller;
- b) transmitting information conveying software components over the communications link, **the software components being adapted to cause software already installed on the spa controller to be updated.**

For the same reasons as those presented above with respect to independent claim 155, the Applicant respectfully submits that neither Elwahab nor Bassett et al. disclose, teach or suggest the above-emphasized limitation of independent claim 216. As such, these references fail to establish a prima facie case of obviousness, as per §2142 of the MPEP.

Claims 217-219 depend from independent claim 216, and as such incorporate by reference all the limitations contained therein, including the above-emphasized limitation which has already been shown to be absent from both Elwahab and Bassett et al. As such, the Applicant respectfully submits that claims 217-219 are also novel and non-obvious as being dependent upon an allowable base claim.

ii) Claims 158, 159, 201 and 202

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In the Office Action, the Examiner has rejected claims 158, 159, 201 and 202 under 35 USC §103(a) as being unpatentable over Elwahab, in view of Bassett et al. in further view of U.S. Patent 5,877,957 (hereafter to be referred to as Bennett)

Claims 158 and 159 are dependent on independent claim 155, and as such incorporate by reference all the limitations contained therein, including the following limitations which have already been shown to be absent from both Elwahab and Bassett et al.

An interface signal converter for:

- receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller;
- communicating said software components to said spa controller for updating the software installed on said spa controller;

The Applicant further submits that this limitation is also absent from Bennett. Bennett relates to an automation system for programming appliances. However, nowhere does Bennett disclose receiving signals conveying software components over a communication link and then "communicating said software components to said spa controller for updating the software installed on said spa controller". Accordingly, Bennett does not disclose the above limitation of independent claim 155.

Since none of Elwahab, Bassett et al. and Bennett disclose the above limitation of independent claim 155, and since claims 158 and 159 incorporate by reference all the limitations contained therein, the Applicant respectfully submits that the combination of these references fails to establish a *prima facie* case of obviousness as per §2142 of the MPEP.

The Examiner is respectfully requested to withdraw his rejection to dependent claims 158 and 159.

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Claims 201 and 202 are dependent on independent claim 200, and as such incorporate by reference all the limitations contained therein, including the below limitations which have already been shown to be absent from both Elwahab and Bassett et al.

said spa controller being operative for:

- receiving signals conveying the software components from said interface signal converter;
- **updating software already installed on said spa controller at least in part on the basis of the software components received from interface signal converter.**

For the same reasons as those presented above, the Applicant respectfully submits that this limitation is also absent from Bennett. Bennett does not teach updating software already installed on an appliance based on software received from an interface signal converter. Accordingly, Bennett does not disclose the above limitation of independent claim 200.

Since none of Elwahab, Bassett et al. and Bennett disclose the above limitation of independent claim 200, and since claims 201 and 202 incorporate by reference all the limitations contained therein, the Applicant respectfully submits that the combination of these references fails to establish a *prima facie* case of obviousness as per §2142 of the MPEP.

The Examiner is respectfully requested to withdraw his rejection to dependent claims 201 and 202.

iii) Claims 164-167 and 207-209

In the Office Action, the Examiner has rejected claims 164-167 and 207-209 under 35 USC §103(a) as being unpatentable over Elwahab, in view of Bassett et al. in further view of U.S. Patent 6,459,959 (hereafter to be referred to as Williams et al.)

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Claims 164-167 are dependent on independent claim 155, and as such incorporate by reference all the limitations contained therein, including the following limitations which have already been shown to be absent from both Elwahab and Bassett et al.

An Interface signal converter for:

- receiving communication signals conveying software components over the communications link, said software components comprising updates to software already installed on said spa controller;
- communicating said software components to said spa controller for updating the software installed on said spa controller;

The Applicant further submits that this limitation is also absent from Williams et al. Williams et al relates specifically to an irrigation controller that includes a plurality of pin sets for controlling a plurality of irrigation stations. Nowhere does Williams et al disclose receiving signals conveying software components over a communication link and then "communicating said software components to said spa controller for updating the software installed on said spa controller". Accordingly, Williams does not disclose the above limitation of independent claim 155.

Since neither Elwahab, Bassett et al. nor Williams et al. discloses the above limitation of independent claim 155, and since claims 164-167 incorporate by reference all the limitations contained therein, the Applicant respectfully submits that the combination of these references fails to establish a *prima facie* case of obviousness as per §2142 of the MPEP.

The Examiner is respectfully requested to withdraw his rejection to dependent claims 164-167.

Claims 207-209 are dependent on independent claim 200, and as such incorporate by reference all the limitations contained therein, including the below limitation which has already been shown to be absent from both Elwahab and Bassett et al.

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said spa controller being operative for:

- receiving signals conveying the software components from said interface signal converter;
- **updating software already installed on said spa controller at least in part on the basis of the software components received from interface signal converter.**

For the same reasons as those presented above, the Applicant respectfully submits that this limitation is also absent from Williams et al. More specifically, Williams et al. does not teach updating software already installed on an appliance based on software received from an interface signal converter. Accordingly, Williams et al. does not disclose the above limitation of independent claim 200.

Since none of Elwahab, Bassett et al. and Williams et al. disclose the above limitation of independent claim 200, and since claims 207-209 incorporate by reference all the limitations contained therein, the Applicant respectfully submits that the combination of these references fails to establish a *prima facie* case of obviousness as per §2142 of the MPEP.

The Examiner is respectfully requested to withdraw his rejection to dependent claims 207-209.

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II. CONCLUSION

In view of the above, it is respectfully submitted that all of claims 155, 158-172, 180-183, 185-187, 190-223 are in condition for allowance. Reconsideration of the rejections and objections is requested. Allowance of claims 155, 158-172, 180-183, 185-187, 190-223 at an early date is solicited.

If the claims of the application are not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims or in making constructive suggestions so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,

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